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10/748,675

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Randall J. Macbeth

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EXAMINER

MADAMBA, GLENFORD J

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/748,675	Applicant(s) MACBETH ET AL.	
	Examiner Glenford Madamba	Art Unit 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-18, 20-30 and 32-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-18, 20-30 and 32-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Remarks and Amendments

1. This action is in response to remarks and claim amendments filed by Applicant's representative on October 28, 2008.
2. Applicant's remarks and claim amendments filed on October 28, 2008 have been considered but are now moot in light of the new grounds of rejection provided with this action.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1-6, 8-18, 20-30 and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBettencourt et al (hereinafter DeBettencourt), U.S. Patent Publication US 2002/0042823 A1 in view of Barth et al (hereinafter Barth), U.S. Patent

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Publication US 2006/0123012 A1 and in further view of Takagi et al (hereinafter Takagi), U.S. Patent 7,058,695.

As per Claims 1, 13, 25 and 37, DeBettencourt in view of Barth discloses a system for monitoring a networked computer service for fault recovery [Abstract], comprising:

an input interface (e.g., Webspective Console 304) [Figs. 7-9] to receive network status data (e.g., webserver 'status information', such as server availability and load) [0044] (i.e., CPU idle time) [Fig. 8] (e.g., Load Metric) [Fig. 12a] from a network monitor (e.g., Manager 110 with Watcher 111) monitoring a computer services network (e.g. web service system 90) [Fig. 1];

a control engine (e.g., Interceptor 120), the control engine communicating with the input interface to receive the network status data and automatically generate control commands to dynamically adjust the set of features based on a fault condition (e.g., webserver, application and/or component error or failure) [0029] [0099] in the network status data for one or more features within the set of features (one or more of a plurality of webserver, applications and/or components for responding to a request for a web page or set of webpages) [0032-0033], wherein the set of features normally provide one or more panels of information for presentation on one or more web pages provided by the networked service to one or more users, and wherein the fault condition comprises undesired performance degradation of one or more features (DeBettencourt: e.g., component failure and/or network environment problems) [Abstract] [Fig. 2] [0044] [0051] [0099]; and

an output interface (e.g. Webspective Console / Viewer) [Figs. 6 & 9], communicating with the control engine (e.g., Interceptor 120) and the computer services network (web service system 90)), the output interface communicating the control commands (e.g., redirection, activation, deactivation and/or recovery of the web servers, applications, and/or components) to the computer services network to dynamically adjust the set of features by deactivating the one or more features having a fault condition while maintaining active features in the set of features to continue to provide users with a portion of the networked computer service [Barth: 0009-0013] [0028-0033] [0089-0090] by providing the network computer service with only the active features while the one or more features having a fault condition are at least temporarily removed from the networked computer service [0046-0048] (e.g., enabling / "START" or disabling / "KILL of webserver 102 or an application for "temporary adjustment") [0051] [0079] [Figs. 2 & 3] such that the one or more web pages include panels of information from only active features while panels of information from deactivated features are omitted from the one or more web pages. (Takagi: e.g., request / presentation of 'web pages' including adjoining pages) [Abstract] [col 1, L14-40]

Additionally, while DeBettencourt discloses substantial features of the invention, as cited above, the additionally recited feature of dynamically adjusting the set of features by deactivating the one or more features having a fault condition while

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maintaining active features in the set of features to continue to provide the networked computer service is more expressly disclosed by Barth.

Barth discloses as his invention a method and apparatus for a dynamic information connection engine. User actions are detected on at least one client system, and in response, a determination is made whether the user is searching for supported information. When the user is searching for supported information, information is extracted electronically from a third party web site direct supplier connections, and intermediate databases. Potential information suppliers are automatically selected in response to the detected user search. Queries are formulated from the user search and transferred to each selected supplier over a network coupling. The queries include a request for information. Responses are received from the suppliers, and the responses are used to generate a result list for the user. The result list includes information and query status information. Further, an electronic link may be provided to a web site of each supplier from which the information was derived [Abstract].

In particular Barth discloses the above additionally recited feature of dynamically adjusting the set of features by deactivating the one or more features having a fault condition while maintaining active features in the set of features to continue to provide the networked computer service [0009-0013] [0028-0033] [0089-0090] (i.e., 'deactivating' *electronic links {URLS}* and/or *purchasing controls* or feature of the resultant display when the search results have a 'fault', such as when the search results are time-sensitive and are no-longer 'valid') [0112-0113] [Figs. 2-5].

It would thus be obvious to one of ordinary skill in the art at the time of the invention to combine and/or modify DeBettencourt's invention with the above additional recited feature, as disclosed by Barth, for the motivation of providing a system that efficiently gathers and evaluates information from multiple electronic sources and presents relevant information to potential buyers, sellers, or traders [0003] [0012].

Further, with regards to the claim, while the combination of DeBettencourt and Barth discloses substantial features of the invention, as above, the additionally recited features of wherein the set of features normally provide one or more panels of information for presentation on one or more web pages provided by the networked service to one or more users and providing users with a portion of the networked computer service by providing the network computer service with only the active features while the one or more features having a fault condition are at least temporarily removed from the networked computer service such that the one or more web pages include panels of information from only active features while panels of information from deactivated features are omitted from the one or more web pages are disclosed by Takagi in a related endeavor.

Takagi discloses as his invention a technique for simplification of Web pages in order to access necessary information rapidly, when displaying or outputting Web pages using a small screen device or a voice browser. The method for simplifying web

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contents includes the steps of acquiring a target page subject to simplification, acquiring adjoining pages that adjoin the target page and performing difference operation to 'delete objects' that are common among the target page and the adjoining pages from the target page to generate a simplified page [Abstract].

In particular, Takagi discloses the above additionally recited features of wherein the set of features normally provide one or more panels of information for presentation on one or more web pages provided by the networked service to one or more users, (e.g., request / presentation of 'web pages' including adjoining pages) [Abstract] [col 1, L14-40] and providing users with a portion of the networked computer service by providing the network computer service with only the active features while the one or more features having a fault condition are at least temporarily removed from the networked computer service such that the one or more web pages include panels of information from only active features while panels of information from deactivated features are omitted from the one or more web pages [col 1, L28-64] [col 2, L24-57] [Figs. 10-13] [Figs. 16 & 17].

It would thus be obvious to one of ordinary skill in the art at the time of the invention to modify the combination of DeBettencourt and Barth with the above additionally recited features, as disclosed by Takagi, for the motivation of providing a system and method for simplifying web contents, and more particularly for simplifying contents on the fly, even in the case of web pages which do not have history information or whose URL changes day by day [col 1, L6-12].

Claims 13 and 25 recite the same limitations as claim 1, are distinguished only by their statutory category, and thus rejected on the same basis.

As per Claims 2, 14, and 26, DeBettencourt discloses a system according to claim 1, wherein the computer services network comprises an Internet service (web service system 90) [Fig. 1].

Claims 14 and 26 recite the same limitations as claim 2, are distinguished only by their statutory category, and thus rejected on the same basis.

As per Claims 3, 15, and 27, DeBettencourt in view of Barth discloses a system according to claim 2, wherein the Internet service comprises a search service.

While DeBettencourt discloses substantial features of the invention, as cited above, the additionally recited feature of the system wherein the Internet service comprises a search service is expressly disclosed by Barth in a related endeavor.

Barth discloses as his invention a method and apparatus for a dynamic information connection engine. User actions are detected on at least one client system, and in response, a determination is made whether the user is searching for supported information. When the user is searching for supported information, information is extracted electronically from a third party web site direct supplier connections, and intermediate databases. Potential information suppliers are automatically selected in response to the detected user search. Queries are formulated from the user search and

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transferred to each selected supplier over a network coupling. The queries include a request for information. Responses are received from the suppliers, and the responses are used to generate a result list for the user. The result list includes information and query status information. Further, an *electronic link* may be provided to a web site of each supplier from which the information was derived [Abstract]. In particular Barth discloses the above additionally recited feature of the system wherein the Internet service comprises a search service (e.g., search system) [0028]

It would thus be obvious to one of ordinary skill in the art at the time of the invention to combine and/or modify DeBettencourt's invention with the above additional recited feature, as disclosed by Barth, for the motivation of providing a system that efficiently gathers and evaluates information from multiple electronic sources and presents relevant information to potential buyers, sellers, or traders [0003] [0012].

Claims 15 and 27 recite the same limitations as claim 3, are distinguished only by their statutory category, and thus rejected on the same basis.

As per Claims 4, 16, and 28, DeBettencourt discloses a system according to claim 1, wherein the network status data comprises at least one of page latency data, processor utilization data, connection data and storage data (e.g., "buffer is full") (e.g., CPU Idle time, webserver load, memory / buffer capacity, network connection, web page response time) [0064] [0067] [0072] [0074].

Claims 16 and 28 recite the same limitations as claim 4 are distinguished only by their statutory category, and thus rejected on the same basis

As per Claims 5, 17, and 29, DeBettencourt discloses a system according to claim 1, wherein the fault condition comprises a failure of the network status data to meet a performance threshold (e.g., performance of web service system) [Abstract] [0029-0030][0044].

While the combination of DeBettencourt and Barth disclose substantial features of the invention such as the system of claim 1, and in particular a system for monitoring a networked computer service for fault recovery, the additional feature of the system wherein the fault condition comprises a failure of the network status data to meet a performance threshold is more expressly disclosed by DeBettencourt in a related endeavor.

DeBettencourt discloses as his invention a web service system that allows a system operator to manage multiple web servers [0001]. In particular, DeBettencourt discloses the additional feature of the system wherein the fault condition comprises a failure of the network status data to meet a *performance threshold* (e.g., error and/or component failure thresholds) [Abstract].

It would thus be obvious to one of ordinary skill in the art at the time of the invention to modify the combined invention of DeBettencourt and Barth with the added feature of the system wherein the fault condition comprises a failure of the network status data to meet a *performance threshold*, as disclosed by DeBettencourt, for the

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motivation of providing management capability in automatic error recovery and recovery from component failures or network environmental problems [Abstract] [0002] [0010].

Claims 17 and 29 recite the same limitations as claim 5, are distinguished only by their statutory category, and thus rejected on the same basis

As per Claims 6, 18, and 30, DeBettencourt discloses a system according to claim 5, wherein the performance threshold comprises a minimum response time for a user of the networked computer services (e.g., client response time) [0004].

Claims 18 and 30 recite the same limitations as claim 6, are distinguished only by their statutory category, and thus rejected on the same basis.

As per Claims 8, 20, and 32, DeBettencourt discloses a system according to claim 7, wherein the control engine reactivates at least a portion of the one or more features upon restoration of predetermined network status data (e.g., 'revival' or reactivation of webserver into the webserver availability 'list') [0103].

Claims 20 and 32 recite the same limitations as claim 8, are distinguished only by their statutory category, and thus rejected on the same basis

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As per Claims 9, 21, and 33, DeBettencourt discloses a system according to claim 7, wherein the control engine alters the operation of another service in compensation for the affected service [0095-0098]].

Claims 21 and 33 recite the same limitations as claim 9, are distinguished only by their statutory category, and thus rejected on the same basis

As per Claims 10, 22, and 34, DeBettencourt discloses a system according to claim 1, wherein the control engine comprises a rules-based decisioning engine (e.g., 'redirection rules' or policy) [0083].

Claims 22 and 34 recite the same limitations as claim 10, are distinguished only by their statutory category, and thus rejected on the same basis

As per Claims 11, 23, and 35, DeBettencourt discloses a system according to claim 10, wherein the rules-based decisioning engine interfaces to a control database (e.g., web server interface) [0078-0083]

Claims 23 and 35 recite the same limitations as claim 7, are distinguished only by their statutory category, and thus rejected on the same basis

As per Claims 12, 24, and 36, DeBettencourt discloses a system a system according to claim 1, further comprising a manual override selector, the manual override selector

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permitting an operator to override the control commands generated by the control engine (e.g., Manager 110) [0051].

Claims 24 and 36 recite the same limitations as claim 7, are distinguished only by their statutory category, and thus rejected on the same basis.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.06(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenford Madamba whose telephone number is 571-272-7989. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Wallace Martin can be reached on 571-272-3440. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John Follansbee/
Supervisory Patent Examiner, Art Unit 2451

Glenford Madamba
Examiner
Art Unit 2451